

16 FOOD, DRINK & LODGING

An Educational Guide to Sales Tax in the State of Idaho

This brochure is intended to help the restaurant, bar, and lodging industries understand the sales tax laws that apply to them. This information is based on the laws and rules in effect on September 1, 2006. For a list of state tax rates, visit our Web site at tax.idaho.gov.

SALES

What taxes apply to sales by lodging, food, and drink providers?

Food and drink: The state sales tax must be charged on the price of food or drinks furnished by any restaurant, cafeteria, hotel, diner, club, or any other place serving meals or drinks. Private clubs, country clubs, athletic clubs, fraternal and similar organizations also must charge sales tax when they sell food and drinks, even if they make sales only to members. Charges for preparing and serving customer-supplied food are also taxable.

Hotel/motel rooms rented for *sleeping* accommodations: Throughout Idaho, fees for sleeping accommodations are subject to the state sales tax plus travel and convention tax.

Hotel/motel rooms rented for purposes *other than sleeping*: When an innkeeper rents a room for nonsleeping purposes, such as for a business meeting, the travel and convention tax doesn't apply. Only the state sales tax applies.

Bed and breakfast: If a single fee is charged for a bed and breakfast accommodation, the entire fee is subject to the state sales tax and the travel and convention tax. If the price for the meal is charged separately to the customer, then only the room fee is subject to the two taxes. The meal is subject only to the state sales tax.

Campground spaces for overnight accommodations: Campground operators renting spaces for overnight accommodations must collect state sales tax plus travel and convention tax. Only the state sales tax applies to campgrounds operated by the state of Idaho or its political subdivisions.

Campground spaces for day use only: If the fee charged for using a campground doesn't include the right to stay overnight, only the state sales tax applies.

Local option tax: Some Idaho counties, cities, and auditorium districts may add a separate tax to the state sales tax. The Tax Commission administers the Greater Boise Auditorium District tax in the Boise area. This tax applies to hotel/motel rooms rented for sleeping accommodations and for nonsleeping purposes, such as for a business meeting. For more information on local sales taxes, contact the county, city, or auditorium district in your area. You can also visit our Web site for a list of local sales taxes in Idaho.

Do innkeepers use one return to pay all the different taxes they collect?

No. Innkeepers must file separate tax returns even though they can lump all the room taxes into one rate on the sales invoice. To apply for permits to collect state sales tax, travel and convention tax, and Greater Boise Auditorium District tax, go online at business.idaho.gov or complete the Idaho Business Registration form available on our Web site or at any Tax Commission office.

When an innkeeper adds laundry, phone charges, or parking fees to a bill, are these fees taxable?

No. They aren't taxable if they're listed separately on the customer's bill.

Are gratuities taxable?

Sometimes. A "gratuity" is something given voluntarily or beyond obligation. These fees fall into one of five categories:

1. When the buyer gives a cash gratuity directly to an employee, or adds an unsolicited gratuity to the bill, the gratuity isn't taxable.
2. When a retailer adds an amount to a customer's bill, and the customer is informed in writing on the front of the bill that he can decline to pay all or part of the amount, the gratuity isn't taxable.
3. When a retailer adds an amount to the customer's bill, and the customer isn't informed in writing on the front of the bill that he can decline to pay all or part of it, the fee is taxable (because it isn't given voluntarily).
4. When a gratuity is negotiated before the sale, such as in the case of a banquet, the entire fee is taxable. Because of the negotiation, the fee loses its identity as a "gratuity" and becomes part of the purchase price of the meal.
5. Service charges added to the price of meals, drinks, or accommodations must be included in the taxable purchase price. Even if the service charges take the place of tips and are paid to the retailer's employees, tax is due because the amount is not "voluntarily" given by the customer.

Are government employees exempt from paying room taxes?

Generally, no. If the employee pays for the room and is reimbursed by his employer, tax applies. An exemption applies only when the government agency is billed and pays the room charges directly. Here are ways the innkeeper can document direct billing and payment by a government agency:

- **Checks issued by government agencies:** If the charges are directly billed to the U.S. government or an Idaho government agency (state, city, or county) and paid for by the agency's check, the taxes don't apply. The innkeeper must keep a copy of the check or the remittance advice from the government check to document the exempt sale. Idaho state, city, and county government agencies must give the innkeeper a completed form ST-101 for his records.
- **Credit card charges directly paid by government agencies:**
 - The U. S. Government Smart Pay **Purchasing Card**. All purchases made with this card are billed directly to the agency and are exempt from sales tax. To document the exempt purchase, the innkeeper should keep a photocopy of the card and have the employee complete form ST-104-HM, Sales Tax Exemption on Lodging Accommodations.
 - The U. S. Government Smart Pay **Travel Card**. This card is used by federal employees for official travel expenses. Unlike the purchasing card, purchases with this card may or may not be tax exempt. If the purchase is billed to the employee, the sale is *taxable*. If the purchase is directly billed to the government agency, the sale is *exempt* from sales tax. To document the exempt purchase, the innkeeper should keep a photocopy of the card and have the employee complete form ST-104-HM.
 - Some Idaho government agencies issue tax exempt **purchasing cards** to employees. This Wells Fargo Bank MasterCard® has the name of the state agency and, in most cases, the name of the state employee using the card imprinted on the bottom. The card reads: "State of Idaho — Tax Exempt." Charges to the card are directly billed to the state agency and paid for by the agency. To document the exempt purchase, the innkeeper should keep a photocopy of the card and have the employee complete form ST-104-HM.

- **Other Credit Cards:** If the charges are to a U. S. government or Idaho (state, county, or city) government employee using any other credit card the employee claims is directly paid by his employer, he must make this claim on form ST-104-HM. The innkeeper must make sure the form is completed and keep it to document the exempt sale.

Can employees from other states claim these exemptions?

No. Governments of other states aren't exempt from Idaho sales taxes. Only charges to Idaho governments (such as state agencies, cities, or counties) and U. S. government agencies are exempt from Idaho tax.

Are any other customers exempt from these taxes?

Yes. Here are some *examples*:

- **Persons who continually occupy** a room or campground space for 31 or more days are exempt from room taxes. However, if a corporation rents a room for 31 or more days to be used by more than one traveling employee, room taxes must be charged. The exemption applies only when the same person rents the room for 31 days or more. The vendor must keep records (such as the guest registration card and invoice) to show that the exemption applies.
- **Nonprofit hospitals and nonprofit schools** (both in the state and out of state) are exempt from paying sales tax on direct billing for meals and lodging. They must provide a completed form ST-101.

These are the most common exempt buyers you'll encounter. If a customer other than those listed here claims to be exempt from sales tax, he must qualify for an exemption listed on form ST-101 and complete the form for your records.

PURCHASES

What can a restaurant or bar buy exempt from tax?

Sellers of food, meals, or drinks may buy goods for resale without paying tax if the items are:

- For resale to their customers,
- Included in the fee charged to the customer, and
- Directly consumed by the customer in such a way that they can't be reused.

Here are some *examples*:

- Food and drink ingredients
- Disposable containers (paper cups and plates, "to-go" containers and sacks, pizza cartons, chicken buckets, etc.)
- Disposable supplies that are used by the customer and are included in the price of the meal or drink (drinking straws, stir sticks, paper napkins, paper placemats, plastic eating utensils, toothpicks, etc.)
- Candy, popcorn, drinks, or food included in the price of other food, meals, and drinks (such as hors d'oeuvres served to patrons in a lounge)

To buy these goods without paying sales tax to the vendor, the innkeeper, restaurant, or campground must present a completed form ST-101 to the supplier.

What purchases by a restaurant or bar are taxable?

Items that aren't included in the fee charged to the customer and aren't directly consumed by the customer are taxable when purchased by a restaurant, bar, or similar establishment.

Examples of taxable goods include:

- Waxed paper, plastic wrap, foil, paper towels, dish soap, garbage can liners, or other products consumed by the retailer
- Linens, silverware, glassware, tablecloths, towels, and nondisposable napkins and cookware
- Furniture, fixtures, and other depreciable property
- Menus
- Any item available to the general public or employees, such as restroom supplies and matches
- Complimentary candy, popcorn, drinks, or food, when patrons aren't required to buy other food, meals, or drinks in order to receive the complimentary goods

What can an innkeeper or campground operator buy exempt from tax?

Hotels, motels, and campgrounds can buy goods without paying tax if the items are:

- Consumed by their customers in such a way that they can't be reused, *and*
- Part of the price the customer pays for the room or camping space.

Here are some *examples* of items that can be purchased exempt from tax if they're placed in motel rooms or provided to campground patrons:

- Facial tissue, toilet tissue, disposable laundry bags, and paper napkins
- Soap, lotion, shampoo, and conditioner
- Disposable drinking glasses, utensils, shoe shine cloths, and shower caps
- Candy, beverages, food, and newspapers
- Stationery, envelopes, notepads, and matches

To buy these goods without paying sales tax to the vendor, the innkeeper or campground operator must complete a form ST-101 for the supplier's records.

What purchases by an innkeeper or campground operator are taxable?

You must pay tax on any items that are:

- *not* included in the room or campground charge, or
- *not* directly consumed by the customer, or
- *not* disposable

Examples of items you should pay tax on include:

- Bath towels, bath mats, garbage can liners, linens, and bedding
- Glassware, silverware, and china
- Furniture and fixtures
- Bibles, books, magazines, and directories
- Any items available to the general public

For more information, read:

Brochure #2	Use Tax
Brochure #4	Retailers
Brochure #5	Retailers and Wholesalers: Making Exempt Sales
Rule 28	Hotels, Motels, and Campgrounds
Rule 41	Food, Meals, or Drinks

For more information, contact:

- Idaho State Tax Commission: In the Boise area, 334-7660; Toll free, (800) 972-7660
- Hearing impaired: TDD (800) 377-3529
- tax.idaho.gov

This information was prepared by the Idaho State Tax Commission. It does not provide comprehensive explanations of Idaho tax laws or rules. Specific questions should be addressed to the Tax Commission or a qualified tax practitioner.